

# EXHIBIT 16

## 6.5 Performance Standard for Navigation

### 6.5.1 Introduction

Use of the river in the project area by recreational and commercial watercraft is expected to continue during implementation of the RA. The performance standard for navigation, which is designed to limit project-related navigation impacts, establishes the requirements by which the remedy can be implemented safely and without unnecessarily hindering overall non-project-related vessel movement.

Navigation has been impeded, to a certain extent, due to dredging limitations associated with the presence of PCB contamination in the sediment. The project, when completed, will improve conditions on the river for commercial and recreational users.

The majority of the dredging is expected to occur outside the navigable portion of the river channel (i.e., in shallower parts of the river). However, the movement of project vessels up and down the river will occur primarily in the navigation channel and associated locks. The number of vessels required on the river to accomplish the remedy has not yet been determined and may vary based, in part, on the type of dredging selected. Mechanically dredged sediment will likely be transported primarily by barge; hydraulically dredged sediment will be transported primarily by pipeline. While the former method will require the use of more vessels on the river, the pipeline used to transport hydraulically dredged sediment will necessitate certain navigational considerations. The methods for dredging (by dredge area) will be determined during design.

The remedy will comply with applicable federal and state navigation rules and regulations that have been established to promote safe and effective vessel movement.<sup>1</sup> This standard also includes additional requirements developed to protect the quality of life for users of the river. The RA Team's adherence to the requirements established in this performance standard for navigation will minimize potential impacts on the community and other entities that also use the river (e.g., commercial and recreational vessels) during remedial activities.

### Summary of the Performance Standard for Navigation

The navigation performance standard was developed to ensure that remedial dredging activities can be completed safely and on schedule while minimizing inconvenience to recreational and commercial watercraft. Achieving the standard will require close coordination between the RA Team, the USEPA, and the New York State Canal Corporation (NYSCC). The RA Team vessels (bulk transport

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<sup>1</sup> CERCLA contains a permit exemption, set forth at Section 121(e)(1), for the portion of a remedial action that is conducted on-site. USEPA guidance interprets this permit exemption to apply to all administrative requirements, whether or not they are actually styled as "permits." To the extent that an applicable navigation requirement is procedural rather than substantive in nature, the USEPA will evaluate, in consultation with NYSCC, whether such a requirement should be met for this project.

## 6. Quality of Life Performance Standards

and tugs) will be considered commercial vessels for purposes of navigation on the Champlain Canal system.

The RA Team will be expected to comply with applicable navigation laws, rules, regulations, and other applicable requirements as indicated in Section 6.5.7. Notification of NYSCC by the RA Team will be required when remedial activities are anticipated. The RA Team will be required to use all reasonable means of providing Notices to Mariners via NYSCC and the U.S. Coast Guard (USCG) to facilitate navigation of the river channel by other watercraft and to properly notify mariners of anticipated delays in the use of the channel and/or locks. In addition, the RA Team will provide the public with a schedule of anticipated project activities. The navigation performance standard is summarized in Table 6-12 and is supported by the laws, regulations, and other requirements summarized in Appendix B.

**Table 6-12 Summary of Applicable Navigation Regulations and Requirements**

Navigation Laws, Rules, Regulations and other Applicable Requirements	Performance Standard	Demonstration of Compliance <sup>1</sup>
U.S. Code Title 33 – Navigation and Navigable Waters Chapter 9 (Protection of Navigable Waters and of Harbors and Rivers) and Chapter 34 (Inland Navigational Rules of the United States)	Comply with existing regulations related to obstructions, avoiding collisions, safe navigation, and signaling as described in Appendix B.	Perform required monitoring, reporting, and notifications as described in the standard.
New York State Consolidated Law Chapter 37 (Navigation Law)	Comply with existing NYS regulations as they apply to free and safe navigation (aid and lighting to be displayed) and are related to protection of navigable waters as described in Appendix B.	Perform required monitoring, reporting, and notifications as described in the standard.
New York State Consolidated Law, Chapter 5 (Canal Law); New York State Canal Corporation Rules and Regulations; Title 21, Miscellaneous; Chapter III NYS Thruway Authority, Subchapter D Canal System	Comply with existing regulations related to signals and vessel operation to provide safe and timely navigation as described in Appendix B. Dredging to NYSCC specifications may be needed in areas designated during design, as determined by the USEPA in consultation with NYSCC.	Perform required monitoring, reporting, and notifications as described in the standard.